

Congress of the United States
Washington, DC 20515

March 11, 2019

The Honorable Jerrold Nadler
Chair
House Judiciary Committee
2141 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Doug Collins
Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Zoe Lofgren
Chair
Subcommittee on Immigration
and Citizenship
2141 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Ken Buck
Ranking Member
Subcommittee on Immigration
and Citizenship
2142 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Nadler and Lofgren and Ranking Member:

On March 5, 2019, the attached private bill, H.R.1547, which would make Malachy McAllister, Nicola McAllister, and Sean Ryan McAllister eligible for legal permanent resident status was introduced. We write to ask that you make a written request to Immigration and Customs Enforcement (ICE) for a stay of removal for Malachy McAllister until Congress either acts on the bill or adjourns without acting on the bill and the grace period (March 15 of the new Congress) expires. Additionally, we ask for you to consider H.R.1547. Finally, we ask that you request a departmental report for Malachy, Nicola, and Sean Ryan McAllister.

Past practice in the House of Representatives dictated that if the Subcommittee on Immigration and Citizenship held a formal meeting on a private bill and entertained a motion to request DHS provide the Subcommittee with a departmental report on a beneficiary of a private bill, DHS would honor requests for department reports by staying deportation for the remainder of the Congress. However, DHS unilaterally changed this policy last Congress, which restricts Congress' authority to provide private immigration relief.

Mr. McAllister and his children entered the United States lawfully in March 1996 from Canada on the Visa Waiver Program as visitors for pleasure. They pursued applications for political asylum in the United States based on past persecution and a fear that their lives would be in danger if they were to return to Northern Ireland. Initially, in October 2000, Immigration Judge Henry S. Dogin denied the asylum application of Malachy McAllister, finding that he was excluded due to his prior convictions, but granted the asylum claims of Mr. McAllister's wife and their children, Sean and Nicola, finding that they had suffered "*severe persecution*" in their home country. The Immigration Judge found the attack on the McAllister home by Loyalist paramilitaries to be "[t]he most striking

and blatant act of persecution, and the one that undoubtedly stands on its own as evidence of past persecution."

However, the asylum claims of Mr. McAllister's family members were denied by the Board of Immigration Appeals ("BIA") on November 17, 2003, and the BIA affirmed that Malachy McAllister was removable from the United States pursuant to 8 U.S.C. § 1227(a)(4)(B). The family's petition to the United States Court of Appeals for the Third Circuit was unsuccessful.

Although Mr. McAllister is the beneficiary of an I-130 Petition for Alien Relative filed by his U.S. Citizen son, Paul Gary McAllister, he is permanently precluded from adjustment of his status to legal permanent resident on the same grounds for which he was denied asylum and found removable.

Mr. McAllister has now exhausted all his legal and administrative remedies and the only option available to him is passage of a private bill that would grant him and his children permanent legal residence in the United States.

As you may know, Mr. McAllister served time in an Irish prison for offenses arising out of actions he took during the conflict in Northern Ireland known as "the Troubles." It is noteworthy that the offenses for which Mr. McAllister was convicted occurred 36 years ago. He has never been convicted of any offenses within the United States.

Mr. McAllister served his sentence and was released early due to his good behavior. Shortly thereafter, Loyalist paramilitaries sprayed his family's home with automatic weapons fire, barely missing his young children and mother-in-law. Subsequently, Mr. McAllister and his family fled Belfast in 1988. The McAllister family came to America seeking refuge from the persecution and violence they suffered due to their religion and/or political opinions and they deserve sanctuary in our nation.

The U.S. Court of Appeals for the Third Circuit expressed regret that it lacked the statutory tools to resolve Mr. McAllister's case, but found that Malachy McAllister demonstrably posed no danger to the safety and security of the United States. Nevertheless, he was forever barred from asylum or any other relief as an alien found to have "*engaged in terrorist activities*" without regard to the circumstances under which his offenses were committed, or the length of time that had expired since those offenses were committed. There is no definition of "terrorism" contained anywhere in the Immigration and Nationality Act (INA), only a definition of "having engaged in terrorist activities," which has a much broader reach than Congress originally intended¹.

Whereas the Good Friday Agreement, brokered by the United States, resolved the longest-running conflict in Europe, and provided for the release and reintegration of political prisoners such as Malachy McAllister to boost the fledgling peace process, the INA provides neither the Courts, nor the Attorney General, with any legislative language which could recognize such developments and provide relief under the Act.

¹ Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 defined "terrorism" as "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."

We would like to note that the Third Circuit Court made a highly unusual plea to the Attorney General to find the means to provide political relief for Malachy McAllister and his children. Judge Maryanne Trump-Barry, in her concurring opinion in *McAllister v. Atty. Gen.*, 444 F.3d 178, made a unique plea from the bench for the type of relief, which Mr. McAllister and his children now seek:

It simply should not be that, particularly in circumstances such as those we now have before us, the individual and his individuality are largely, if not entirely, irrelevant, lost in a sea of dispositive definitions and harsh and complex laws. And we cannot be the country we should be if, because of the tragic events of September 11th, we knee-jerk remove decent men and women merely because they may have erred at one point in their lives. We should look a little closer; we should care a little more. I would ask — no, I would implore — the Attorney General to exercise his discretion and permit this deserving family to stay.

The Third Circuit Court was also particularly concerned that the McAllister children's claim to asylum had expired with their mother, and expressed concern that they had been deprived of any opportunity to file individual applications for asylum. Accordingly, it is respectfully submitted that your Committee is the only body that can resolve the residual procedural unfairness raised in this matter, by way of private legislation.

Mr. McAllister and his children clearly pose no threat to the United States, or its citizens. In fact, Mr. McAllister has been an ardent proponent of the Irish Peace Process, bolstered by pro-active policies of the Bush and Clinton Administrations. He has been a resident of New Jersey since March 1996 and is a homeowner in Rutherford. He is a dedicated member of his New Jersey community and is the owner and president of Antrim Masonry Corporation, a construction and restoration company established in 1998. The company has hired several U.S. citizens and U.S. legal permanent residents, and it has been a successful business for over a decade. He is former owner of *Wolfe Tone's*, a bar and restaurant in New York City, which similarly employed several U.S. citizens and residents.

He has developed deep ties to the Irish-American community in the Tri-State area of New York, New Jersey and Connecticut, and had been a member of the Ancient Order of Hibernians ("AOH") for 20 years, and served on its New Jersey State Board. He was elected Chairman of the United Irish Counties Association event in 2009, which hosted and recognized Former Senator George Mitchell for his work on the Good Friday Agreement. Mr. McAllister was also granted the prestigious appointment as aide to the 2010 New York St. Patrick's Day Parade Grand Marshall, namely, New York Police Commissioner Raymond Kelly.

Mr. McAllister is a father to another United States citizen child, Cadan Aogh McAllister (born on August 17, 2011) who would face significant hardships should his father be removed. He is also a grandfather to five U.S. born grandchildren.

In October 2013, an action was issued on behalf of Malachy McAllister and his children in the High Court in Belfast, *McAllister v. Chief Constable PSNI*, 2013 No. 099762, seeking redress

against state agencies for their role in aiding Loyalist terrorists in the targeting of Malachy McAllister for assassination. In 2014, the U.S. District Court for the District of Massachusetts ordered disclosure to the PSNI of interview materials pertaining to Winston Churchill Rea, who had provided an interview to Boston College as part of its "Belfast Project" academic oral history project. Mr. Rea was subsequently prosecuted on June 6, 2016 for, *inter alia*, the attempted murder of Malachy McAllister on October 2, 1988. It is anticipated that the prosecution of this action may result in further disclosure of information concerning the attack on Malachy's home and family, and the extent of the involvement of elements of the security forces in the planning of the gun attack.

The McAllister's family case has also received bipartisan support from dozens of current and former Members of Congress, including Rep. Eliot Engel, Rep. Peter King, Rep. Bill Pascrell, former Rep. Joe Crowley, as well as Senator Schumer. We strongly believe that this family should remain together in the United States. It is my hope that once and for all we can grant the McAllister family private relief and pass this legislation expeditiously.

We respectfully request that the written request for a stay of removal for Malachy McAllister be made today. Below are the dates and places of birth, alien numbers, and current addresses for the proposed beneficiaries. We look forward to working with you to help the individuals my private bill would provide relief to. Please contact me or Dylan Sodaro in the office of Representative Bill Pascrell, Jr. (202-225-5751) or Ryan Woodward in the office of Representative Peter King (202-225-7896) if you have any questions regarding this matter.

Beneficiary	Alien Number	Date of Birth	Place of Birth	Address
Mr. Malachy McAllister	A#73-629-577	5 August 1957	Belfast, Northern Ireland	119 Mountain Way Rutherford, NJ 07070
Ms. Nicola Andrea Mary McAllister	A#73-551-834	25 July 1986	Belfast Northern Ireland	336 Mountainside Drive, Highland Lakes, NJ 07422
Mr. Sean Ryan McAllister	A#73-551-835	27 October 1987	Belfast, Northern Ireland	119 Mountain Way Rutherford, NJ 07070

Sincerely,



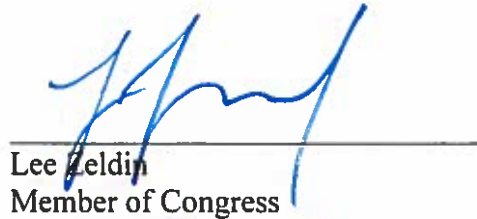
Bill Pascrell, Jr.
Member of Congress



Peter King
Member of Congress



Brendan Boyle
Member of Congress



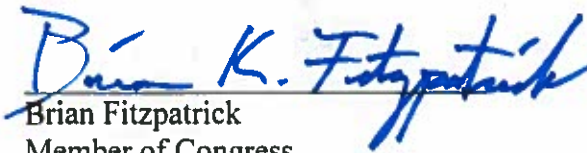
Lee Zeldin
Member of Congress



Joe Courtney
Member of Congress



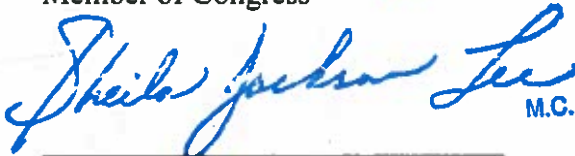
Michael Doyle
Member of Congress



Brian Fitzpatrick
Member of Congress



Brian Higgins
Member of Congress



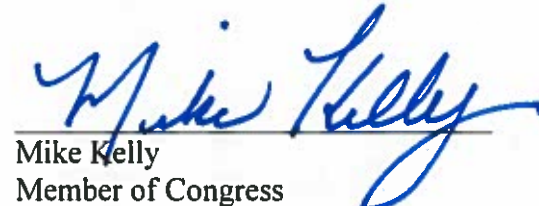
Sheila Jackson Lee
Member of Congress



Marcy Kaptur
Member of Congress



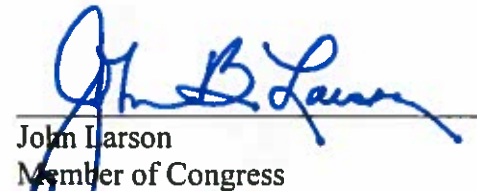
Bill Keating
Member of Congress



Mike Kelly
Member of Congress



Dan Kildee
Member of Congress



John Larson
Member of Congress



Daniel W. Lipinski
Member of Congress



Stephen Lynch
Member of Congress



Carolyn Maloney
Member of Congress



James P. McGovern
Member of Congress


Richard E. Neal
Member of Congress


Donald Norcross
Member of Congress



Frank Pallone, Jr.
Member of Congress



Donald Payne, Jr.
Member of Congress



Mike Quigley
Member of Congress


Kathleen Rice
Member of Congress


Albio Sires
Member of Congress


Christopher H. Smith
Member of Congress


Bonnie Watson Coleman
Member of Congress


Peter Welch
Member of Congress